

Senate File 289 - Reprinted

SENATE FILE 289
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 25)

(As Amended and Passed by the Senate March 8, 2011)

A BILL FOR

1 An Act relating to open records and public meetings and
2 including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.341, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. If money is appropriated for this purpose, by November 1
4 of each year supply a report which contains the name, gender,
5 county, or city of residence when possible, official title,
6 salary received during the previous fiscal year, base salary as
7 computed on July 1 of the current fiscal year, and traveling
8 and subsistence expense of the personnel of each of the
9 departments, boards, and commissions of the state government
10 except personnel who receive an annual salary of less than one
11 thousand dollars. The number of the personnel and the total
12 amount received by them shall be shown for each department in
13 the report. All employees who have drawn salaries, fees, or
14 expense allowances from more than one department or subdivision
15 shall be listed separately under the proper departmental
16 heading. On the request of the director, the head of each
17 department, board, or commission shall furnish the data
18 covering that agency. The report shall be distributed upon
19 request without charge in an electronic medium to each caucus
20 of the general assembly, the legislative services agency, the
21 chief clerk of the house of representatives, and the secretary
22 of the senate. Copies of the report shall be made available to
23 other persons in an electronic medium upon payment of a fee,
24 which shall not exceed the cost of providing the copy of the
25 report. Sections 22.2 through ~~22.6~~ 22.5 apply to the report.
26 All funds from the sale of the report shall be deposited in the
27 printing revolving fund established in section 8A.345.

28 Sec. 2. Section 8E.202, subsection 1, unnumbered paragraph
29 1, Code 2011, is amended to read as follows:

30 The department and each agency shall provide for the widest
31 possible dissemination of information between agencies and the
32 public relating to the enterprise strategic plan and agency
33 strategic plans, including but not limited to internet access.
34 This section does not require the department or an agency to
35 release information which is classified as a confidential

1 record under ~~this Code, including but not limited to section~~
2 22.7 law.

3 Sec. 3. Section 8E.202, subsection 3, Code 2011, is amended
4 to read as follows:

5 3. A record which is confidential under ~~this Code, including~~
6 ~~but not limited to section 22.7,~~ law shall not be released to
7 the public under this section.

8 Sec. 4. Section 21.4, subsections 1 and 3, Code 2011, are
9 amended to read as follows:

10 1. A Except as provided in subsection 3, a governmental
11 body, except township trustees, shall give notice of the time,
12 date, and place of each meeting including a reconvened meeting
13 of the governmental body, and its the tentative agenda of the
14 meeting, in a manner reasonably calculated to apprise the
15 public of that information. Reasonable notice shall include
16 advising the news media who have filed a request for notice
17 with the governmental body and posting the notice on a bulletin
18 board or other prominent place which is easily accessible to
19 the public and clearly designated for that purpose at the
20 principal office of the body holding the meeting, or if no such
21 office exists, at the building in which the meeting is to be
22 held.

23 3. Subsection 1 does not apply to any of the following:

24 a. A meeting reconvened within four hours of the start of
25 its recess, where an announcement of the time, date, and place
26 of the reconvened meeting is made at the original meeting in
27 open session and recorded in the minutes of the meeting and
28 there is no change in the agenda.

29 b. A meeting held by a formally constituted subunit of a
30 parent governmental body may conduct a meeting without notice
31 as required by this section during a lawful meeting of the
32 parent governmental body, or during a recess in that meeting
33 of up to four hours, or a meeting of that subunit immediately
34 following that the meeting of the parent governmental body, if
35 the meeting of the that subunit is publicly announced in open

1 session at the parent meeting and the subject of the meeting
2 reasonably coincides with the subjects discussed or acted upon
3 by the parent governmental body.

4 Sec. 5. Section 21.5, subsection 1, paragraph j, Code 2011,
5 is amended to read as follows:

6 *j.* To discuss the purchase or sale of particular real estate
7 only where premature disclosure could be reasonably expected to
8 increase the price the governmental body would have to pay for
9 that property or reduce the price the governmental body would
10 receive for that property. The minutes and the ~~tape~~ audio
11 recording of a session closed under this paragraph shall be
12 available for public examination when the transaction discussed
13 is completed.

14 Sec. 6. Section 21.5, subsection 4, Code 2011, is amended
15 to read as follows:

16 4. A governmental body shall keep detailed minutes of all
17 discussion, persons present, and action occurring at a closed
18 session, and shall also ~~tape~~ audio record all of the closed
19 session. The detailed minutes and ~~tape~~ audio recording of a
20 closed session shall be sealed and shall not be public records
21 open to public inspection. However, upon order of the court
22 in an action to enforce this chapter, the detailed minutes
23 and ~~tape~~ audio recording shall be unsealed and examined by
24 the court in camera. The court shall then determine what
25 part, if any, of the minutes should be disclosed to the
26 party seeking enforcement of this chapter for use in that
27 enforcement proceeding. In determining whether any portion of
28 the minutes or recording shall be disclosed to such a party for
29 this purpose, the court shall weigh the prejudicial effects
30 to the public interest of the disclosure of any portion of
31 the minutes or recording in question, against its probative
32 value as evidence in an enforcement proceeding. After such a
33 determination, the court may permit inspection and use of all
34 or portions of the detailed minutes and ~~tape~~ audio recording by
35 the party seeking enforcement of this chapter. A governmental

1 body shall keep the detailed minutes and ~~tape~~ audio recording
2 of any closed session for a period of at least one year from the
3 date of that meeting, except as otherwise required by law.

4 Sec. 7. Section 21.6, subsection 3, paragraph a, Code 2011,
5 is amended to read as follows:

6 a. Shall assess each member of the governmental body who
7 participated in its violation damages in the amount of not more
8 than five hundred dollars ~~nor~~ and not less than one hundred
9 dollars. However, if a member of a governmental body knowingly
10 participated in such a violation, damages shall be in the
11 amount of not more than two thousand five hundred dollars
12 and not less than one thousand dollars. These damages shall
13 be paid by the court imposing it to the state of Iowa, if
14 the body in question is a state governmental body, or to the
15 local government involved if the body in question is a local
16 governmental body. A member of a governmental body found to
17 have violated this chapter shall not be assessed such damages
18 if that member proves that the member did any of the following:

19 (1) Voted against the closed session.

20 (2) Had good reason to believe and in good faith believed
21 facts which, if true, would have indicated compliance with all
22 the requirements of this chapter.

23 (3) Reasonably relied upon a decision of a court, ~~or~~ a
24 formal opinion of the attorney general, or the attorney for
25 the governmental body, given in writing, or as memorialized in
26 the minutes of the meeting at which a formal oral opinion was
27 given, or an advisory opinion of the attorney general or the
28 attorney for the governmental body, given in writing.

29 Sec. 8. Section 22.7, subsection 7, Code 2011, is amended
30 to read as follows:

31 7. Appraisals or appraisal information concerning the sale
32 or purchase of real or personal property for public purposes,
33 prior to ~~public announcement of a project~~ the execution of any
34 contract for such sale or the submission of the appraisal to
35 the property owner or other interest holders as provided in

1 section 6B.45.

2 Sec. 9. Section 22.7, subsection 10, Code 2011, is amended
3 by striking the subsection.

4 Sec. 10. Section 22.7, subsection 11, Code 2011, is amended
5 to read as follows:

6 11. a. Personal information in confidential personnel
7 records of public government bodies including but not limited
8 to cities, boards of supervisors and school districts relating
9 to identified or identifiable individuals who are officials,
10 officers, or employees of the government bodies. However, the
11 following information relating to such individuals contained in
12 personnel records shall be public records:

13 (1) The name and compensation of the individual including
14 any written agreement establishing compensation or any other
15 terms of employment excluding any information otherwise
16 excludable from public information pursuant to this section or
17 any other applicable provision of law. For purposes of this
18 paragraph, "compensation" means payment of, or agreement to pay,
19 any money, thing of value, or financial benefit conferred in
20 return for labor or services rendered by an official, officer,
21 or employee plus the value of benefits conferred including but
22 not limited to casualty, disability, life, or health insurance,
23 other health or wellness benefits, vacation, holiday, and sick
24 leave, severance payments, retirement benefits, and deferred
25 compensation.

26 (2) The dates the individual was employed by the government
27 body.

28 (3) The positions the individual holds or has held with the
29 government body.

30 (4) The educational institutions attended by the
31 individual, including any diplomas and degrees earned, and
32 the names of the individual's previous employers, positions
33 previously held, and dates of previous employment.

34 (5) The fact that the individual was discharged as the
35 result of a final disciplinary action upon the exhaustion of

1 all applicable contractual, legal, and statutory remedies.

2 b. Personal information in confidential personnel records of
 3 government bodies relating to student employees shall only be
 4 released pursuant to 20 U.S.C. § 1232g.

5 Sec. 11. Section 22.10, subsection 3, paragraph b, Code
 6 2011, is amended to read as follows:

7 b. Shall assess the persons who participated in its
 8 violation damages in the amount of not more than five hundred
 9 dollars ~~not~~ and not less than one hundred dollars. However, if
 10 a person knowingly participated in such a violation, damages
 11 shall be in the amount of not more than two thousand five
 12 hundred dollars and not less than one thousand dollars. These
 13 damages shall be paid by the court imposing them to the state
 14 of Iowa if the body in question is a state government body,
 15 or to the local government involved if the body in question
 16 is a local government body. A person found to have violated
 17 this chapter shall not be assessed such damages if that person
 18 proves that the person ~~either voted~~ did any of the following:

19 (1) Voted against the action violating this chapter,
 20 refused to participate in the action violating this chapter, or
 21 engaged in reasonable efforts under the circumstances to resist
 22 or prevent the action in violation of this chapter; ~~had.~~

23 (2) Had good reason to believe and in good faith believed
 24 facts which, if true, would have indicated compliance with the
 25 requirements of this chapter; ~~or reasonably.~~

26 (3) Reasonably relied upon a decision of a court ~~or an,~~ a
 27 formal opinion of the attorney general, or the attorney for
 28 the government body, given in writing, or as memorialized in
 29 the minutes of the meeting at which a formal oral opinion was
 30 given, or an advisory opinion of the attorney general or the
 31 attorney for the government body, given in writing.

32 Sec. 12. Section 22.10, subsection 5, Code 2011, is amended
 33 by striking the subsection.

34 Sec. 13. Section 22.13, Code 2011, is amended by striking
 35 the section and inserting in lieu thereof the following:

1 **22.13 Settlements — government bodies.**

2 When a government body reaches a final, binding, written
 3 settlement agreement that resolves a legal dispute claiming
 4 monetary damages, equitable relief, or a violation of a rule
 5 or statute, the government body shall, upon request and to the
 6 extent allowed under applicable law, prepare a brief summary
 7 of the resolution of the dispute indicating the identity of
 8 the parties involved, the nature of the dispute, and the terms
 9 of the settlement, including any payments made by or on behalf
 10 of the government body and any actions to be taken by the
 11 government body. A government body is not required to prepare
 12 a summary if the settlement agreement includes the information
 13 required to be included in the summary. The settlement
 14 agreement and any required summary shall be a public record.

15 Sec. 14. Section 22.14, subsection 3, Code 2011, is amended
 16 to read as follows:

17 3. If a fiduciary or other third party with custody of
 18 public investment transactions records fails to produce public
 19 records within a reasonable period of time as requested by the
 20 public body, the public body shall make no new investments
 21 with or through the fiduciary or other third party and shall
 22 not renew existing investments upon their maturity with or
 23 through the fiduciary or other third party. The fiduciary or
 24 other third party shall be liable for the penalties imposed
 25 under section 22.6 statute, common law, or contract due to the
 26 acts or omissions of the fiduciary or other third party and
 27 ~~any other remedies available under statute, common law, or~~
 28 ~~contract.~~

29 Sec. 15. Section 455K.4, subsection 4, Code 2011, is amended
 30 to read as follows:

31 4. Information that is disclosed under subsection 2,
 32 paragraph "b", is confidential and is not subject to disclosure
 33 under chapter 22. ~~A governmental entity, governmental~~
 34 ~~employee, or governmental official who discloses information in~~
 35 ~~violation of this subsection is subject to the penalty provided~~

1 ~~in section 22.6.~~

2 Sec. 16. REPEAL. Section 22.6, Code 2011, is repealed.

3 Sec. 17. EFFECTIVE UPON ENACTMENT. This Act, being deemed
4 of immediate importance, takes effect upon enactment.